

1 JAMES D. BOYLE, ESQ. (NBN 08384)
2 Email: jboyle@nevadafirm.com
3 CLARK V. VELLIS, ESQ. (NBN 05533)
4 Email: cvellis@nevadafirm.com
5 HOLLEY DRIGGS WALCH
6 FINE PUZEY STEIN & THOMPSON
7 800 South Meadows Parkway, Suite 800
8 Reno, Nevada 89521
9 Telephone: 775/851-8700

10 GRACE M. KIM, ESQ. (NBN 09268)
11 Email: gkim@kllawgroup.com
12 MARC Y. LAZO, ESQ. (Admitted PHV)
13 Email: mlazo@kllawgroup.com
14 10120 South Eastern Avenue, Suite 200
15 Henderson, Nevada 89052
16 Telephone: 800/596-0370

17 *Attorneys for Plaintiffs*

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
SEP 30 2019	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

17 UNITED STATES DISTRICT COURT

18 DISTRICT OF NEVADA *ORDER*

19 JERRY ALEXANDER, MARTY COHEN,
20 CHARLES DELLE DONNE, RICHARD
21 SCOTT ELDER, ARNIE GETTELSON, MARC
22 HARRIS, JERRY HOLLANDER, ELIAS
23 KASSOUF, JEFF MACKINEN, DON
24 MARSHALL, JERRY McDONALD, RON
25 MELANSON, KEN MILES, MARVIN MILLS,
26 MARC MORIN, ROBERT PARKER, DENNIS
POULSEN, RON SMITH, ANDREW TANNER,
CRAIG TIEFENTHALER, VIRGINIA
WALLACE, and GERALD WOLFE, on behalf
themselves and all others similarly situated

27 CASE NO.: 3:16-cv-00572-MMD-CBC

28 PLAINTIFFS' MOTION TO PERMIT
JAMES D. BOYLE, ESQ. TO APPEAR
TELEPHONICALLY FOR STATUS
CONFERENCE

Plaintiffs,

v.

DEAN MEILING, MADYLON MEILING,
JAMES PROCTOR, JANET CHUBB,
individuals, CHEMEON SURFACE
TECHNOLOGY, LLC, METALAST SURFACE
TECHNOLOGY, LLC, D&M-MI, LLC, DSM
PARTNERS, LTD., MEILING FAMILY
PARTNERS, LTD., and MERIDIAN
ADVANTAGE,

Defendants.

1 Pursuant to LR II 7-2, Plaintiffs Jerry Alexander, Marty Cohen, Charles Delle Donne,
2 Richard Scott Elder, Arnie Gettelson, Marc Harris, Jerry Hollander, Elias Kassouf, Jeff
3 Mackinen, Don Marshall, Jerry McDonald, Ron Melanson, Ken Miles, Marvin Mills, Marc
4 Morin, Robert Parker, Dennis Poulsen, Ron Smith, Andrew Tanner, Craig Tiefenthaler, Virginia
5 Wallace, and Gerald Wolfe (collectively, "Plaintiffs") hereby submit this Motion to Permit
6 James D. Boyle, Esq. to Appear Telephonically (the "Motion") for a status conference presently
7 scheduled for October 2, 2019, at 2:00 p.m. Pacific Standard Time (the "Status Hearing"). By
8 this Motion, James D. Boyle, Esq. ("Mr. Boyle") requests to attend the status conference
9 telephonically. This Motion is based on the Memorandum of Points and Authorities set forth
10 below, the pleadings and records on file in this matter, and any oral argument made to this Court.

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 This action is presently stayed pursuant to two separate Orders entered by the Court: (1) a
13 Minute Order entered by the Honorable Magistrate Judge Valerie P. Cooke on July 26, 2017,
14 which stayed the entire proceedings pending resolution of a collateral matter by the Ninth
15 Judicial District Court for the State of Nevada (the "State Court Action") (*see* ECF Nos. 99 and
16 100); and (2) an Order entered by Magistrate Judge Valerie P. Cooke on March 21, 2018, stating
17 that "[d]iscovery in this matter shall remain STAYED until the final resolution of appeals in the
18 [State Court Action]" (*see* ECF No. 107).

19 On February 23, 2018, the Honorable Thomas W. Gregory entered an Order Denying
20 Motion for Preliminary Injunction in the State Court Action. On July 24, 2019 the Supreme
21 Court of the State of Nevada (the "State Supreme Court") entered an Order of Affirmance,
22 affirming the decision and judgment made by Judge Gregory. On July 25, 2019 Plaintiffs filed a
23 Request for Judicial Notice of Order of Affirmance by the Supreme Court of the State of Nevada
24 (*see* ECF No. 121). On August 13, 2019 Defendants Chemeon Surface Technology, LLC, D&M-
25 MI, LLC, DSM Partners, Ltd., Dean Meiling, Madylon Meiling, Meiling Family Partners. Ltd.,
26 and Metalast Surface Technology, LLC (together, the "Meiling Defendants") filed a Notice of
27 Status of Nevada Supreme Court Appeal, requesting that this Court take judicial notice that the
28 Meiling Defendants had lodged a Petition for Rehearing with the State Supreme Court (*see* ECF

1 No. 122). On September 3, 2019 the State Supreme Court entered an Order Denying Rehearing
2 as to the Meiling Defendants' Petition for Rehearing. On September 4, 2019 Plaintiffs filed a
3 Request for Judicial Notice of Order Denying Request for Rearing by the Supreme Court of the
4 State of Nevada (*see* ECF No. 123). The Meiling Defendants subsequently lodged a second
5 Notice of Status of Nevada Supreme Court Appeal on September 18, 2019, notifying this Court
6 that the Meiling Defendants had filed a Petition for En Banc Rehearing with the State Supreme
7 Court (*see* ECF No. 124).

8 On September 26, 2019, Plaintiffs' counsel received an email request from chambers for
9 the Honorable Magistrate Judge Carla B. Carry, inquiring in to the availability of counsel in this
10 action to attend a status conference, which this Court preferred to stack with a hearing on a
11 Motion to Stay Discovery filed in the matter of *Harris v. Meiling, et al.*, Case No. 3:19-cv-0399-
12 MMD-CBC (the "Elder Abuse Action"), which hearing is set for October 2, 2019 at 1:00 p.m.
13 Pacific Daylight Time. Plaintiffs' counsel responded in the affirmative to this inquiry on
14 September 27, 2019.

15 Initially, this Court should note that Mr. Boyle is not counsel of record in the Elder Abuse
16 Action. As such, he was not scheduled to appear for the hearing in the Elder Abuse Action on
17 October 2, 2019. Mr. Boyle indicated that he is available for a status hearing in this action at
18 2:00 p.m. on October 2, 2019, particularly insofar as Mr. Boyle's co-counsel in the
19 representation of Plaintiffs in this action (Marc Y. Lazo, Esq., admitted in this action *pro hac
vice*) will be present for the hearing set in the Elder Abuse Action and Mr. Lazo will be attending
20 the status conference. Additionally, Mr. Boyle has primary knowledge on behalf of Plaintiffs
21 regarding the collateral State Court Action matters which are directly implicated in the present
22 stay of this action.

23 On the short notice provided for the status conference, the expense for Mr. Boyle to
24 travel between Las Vegas, Nevada to Reno, Nevada for the status conference is high. Mr. Boyle
25 seeks to avoid the cost to Plaintiffs of a short-term booking of flight and ground transportation,
26 plus attorneys' fees incurred regarding same, to attend the status conference in person. Thus, as a
27 means of mitigating these expenses to Plaintiffs, Mr. Boyle respectfully requests that he be

1 permitted to attend the status conference telephonically. As mentioned, Mr. Lazo will appear in
2 person on behalf of Plaintiffs.

3 Plaintiffs therefore respectfully suggest that good cause exists to permit Mr. Boyle to
4 appear telephonically for the status conference on October 2, 2019, at 2:00 p.m. Pacific Daylight
5 Time.

6 Dated this 30th day of September, 2019.

7 **HOLLEY DRIGGS WALCH FINE**
8 **PUZEY STEIN & THOMPSON**

9 /s/ James D. Boyle
10 JAMES D. BOYLE, ESQ. (NBN 08384)
11 CLARK V. VELLIS, ESQ. (NBN 05533)
12 800 South Meadows Parkway, Suite 800
13 Reno, Nevada 89521
14 (775) 851-870

15 GRACE M. KIM, ESQ. (NBN 09268)
16 MARC Y. LAZO, ESQ. (Admitted PHV)
17 10120 South Eastern Avenue, Suite 200
18 Henderson, Nevada 89052
19 (800) 596-0370

20 *Attorneys for Plaintiffs*

21 *IT IS SO ORDERED*
22 *G. C. M.*
23 *U.S. MAGISTRATE JUDGE*
24 *DATED: 9/30/2019*